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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

(HONORABLE LARRY A. BURNS)

UNITED STATES OF AMERICA, Plaintiff, v. GENARO SMITH-BALTIHER, Defendant.	Case No. 07CR3161-LAB DATE: May 5, 2008 TIME: 9:30 a.m. DECLARATION IN SUPPORT OF MOTION TO WITHDRAW PLEA OF GUILTY

TO: KAREN P. HEWITT, UNITED STATES ATTORNEY;
PAUL L. STARITA, ASSISTANT UNITED STATES ATTORNEY:

Mr. Smith-Baltiher, by and through counsel, Joseph M. McMullen and Federal Defenders of San Diego, Inc., hereby files the following Declaration in Support of Defendant's Motion to Withdraw Plea of Guilty.

Respectfully submitted,

Dated: April 23, 2008

JOSEPH M. McMULLEN
Federal Defenders of San Diego, Inc.
Attorneys for Mr. Smith-Baltiher

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

(HONORABLE LARRY A. BURNS)

UNITED STATES OF AMERICA, Plaintiff, v. GENARO SMITH-BALTIHER, Defendant.	Criminal Case No. 07CR3161-LAB DECLARATION OF GENARO SMITH-BALTIHER

I, Genaro Smith-Baltiher, declare under penalty of perjury:

1. I am the defendant in the above-captioned case and make this declaration in support of a motion filed by my attorney.
2. The first week of January 2008, I met with my attorney and discussed my upcoming trial.
3. At that time, I expressed my continuing desire to exercise my constitutional right to have the charge against me proven by the government at trial.
4. During the days leading up to the hearing on January 7, 2008, I was feeling increasingly anxious.
5. During those days, I was also experiencing insomnia.

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6. On each of the days leading up to the hearing, the medical staff at the Metropolitan Correctional Center was administering anti-psychotic, anti-depressant, and anti-seizure medication to me.

7. On the day of the hearing, I felt over-medicated, disoriented and unable to think clearly.

8. It was not my desire to plead guilty on January 7, 2008.

9. I wish to withdraw my guilty plea and to proceed to trial.

I swear that, to the best of my knowledge and memory, the foregoing is true and correct.

Dated: 4/23/08

GENARO SMITH-BALTIHER